



Making San Francisco Bay Better

December 13, 2004

California Energy Commission
Dockets Office
Attn: Dockets 04-IEP-01A
1516 Ninth Street
Sacramento, CA 95814-5512

ATTENTION: Commissioner John L. Geesman

SUBJECT: 2005 Energy Report-Transportation Energy

Dear Commissioner Geesman:

I regret that a scheduling conflict will prevent me from attending the Energy Commission's December 17, 2004 workshop on the scope of your Petroleum Infrastructure Environmental Performance Report (PIEPR). Nevertheless, I would like to provide some comments for the record in the hope they will be helpful to you.

Although the San Francisco Bay Conservation and Development Commission (BCDC) Commission members have not reviewed the PIEPR scoping documents, our staff comments are based on the Commission's law, the McAteer-Petris Act, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally-approved management program for the San Francisco Bay and the federal Coastal Zone Management Act of 1972 as amended (CZMA).

Balancing Energy and Environment. BCDC clearly recognizes that energy and economic needs must be balanced with the protection of the natural environment in the San Francisco Bay Area. In a scoping document related to the PIEPR, titled "Transportation Fuels Analysis for the 2005 Energy Report," the CEC notes that as in-state oil production has fallen and demand for petroleum products has risen, the State of California has become a net importer of gasoline. To accommodate this importation over 500 oil tankers enter San Francisco Bay each year. BCDC recognizes that maintaining and possibly expanding the state's petroleum infrastructure is important to assure an adequate supply of petroleum for transportation. To help achieve this goal, BCDC has reserved significant acreage along the Bay shoreline for water-related industries that support oil refineries and terminals. Pursuant to the McAteer-Petris Act, BCDC uses its regulatory authority to prevent these areas from being developed for uses other than water-related industries. At the same time, BCDC recognizes that petroleum infrastructure development may have potential adverse environmental impacts and may compete with other public uses of the Bay. Therefore, the PIEPR should foster an understanding of the historical and future environmental trends associated with petroleum infrastructure development in relation to the long-term forecasts for fuel price and demand contained in the Transportation Fuels Analysis report.

BCDC has an excellent record of balancing petroleum industry development with the protection of San Francisco Bay's natural resources. As described more fully below, our staff routinely performs thorough and expedient environmental reviews of dredging permit applications from oil refineries.

The Bay refineries receive and ship product from marine terminals that require regular dredging. Pursuant to the laws BCDC administers, permits are required for any dredging and dredged material disposal in San Francisco Bay. Our law also requires that BCDC respond within 30 days of the submittal of a permit application regarding any additional information needed to complete the application and act on all complete permit applications within 90 days of their filing. The average time for our staff to respond with a "30-day letter" to dredging permit applicants for refineries has been 24 days, and BCDC has issued dredging and disposal permits an average of 18.5 days after they have been filed as complete. Thus, the staff is acting far quicker than required under state law, even though dredging permit issuance is complicated by issues of chemical and biological testing of sediments and alternative analyses for disposal locations.

This record is due in great part to the fact that our staff works closely with refinery terminal operators. For example, several months ago our staff learned that a tanker had been "light loaded" for transport to San Francisco Bay simply because the terminal operators had received verbal, but not written, approval for a dredging episode at the time of the tanker's departure for California. Even though we had provided approval early enough for the dredging to be completed by the time the ship arrived, to prevent such situations in the future, we have adjusted our process to ensure that the terminal operators now receive written approval well in advance of when an in-bound tanker sets sail for the Bay.

On the planning level, BCDC has joined with the other state and federal agencies that regulate dredging and disposal in the Bay to prepare a joint Long Term Management Strategy (LTMS) for Bay dredging and disposal. This policy approach has resolved the significant controversies that beset Bay dredging projects in the 1990s. The LTMS recognizes the need to dredge petroleum and other port facilities and also provides for disposal of dredged material in a manner that is protective of the Bay environment.

Finally, the LTMS agencies have established a Dredged Material Management Office (DMMO) to further coordinate the processing of state and federal dredging permit processing. The DMMO has adopted a common application form that is used by five agencies and established a single point of contact for dredgers and serves as a "one-stop-shop" to expedite dredging projects while ensuring environmental protection.

We believe that the experience we have gained working with the Bay refineries and implementing the DMMO could be helpful to the CEC staff in preparing the PIEPR analysis

Agency Coordination. In developing its PIEPR analysis of environmental impacts specific to the San Francisco Bay, we recommend that the CEC should coordinate with a number of state and local agencies including, but not limited to: U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, U.S. Coast Guard, NOAA Fisheries, U.S. Department of Transportation, Office of Pipeline Safety, California Department of Fish and Game, State Lands Commission, the Office of Oil Spill Prevention and Response and the San Francisco Bay Regional Water Quality Control Board.

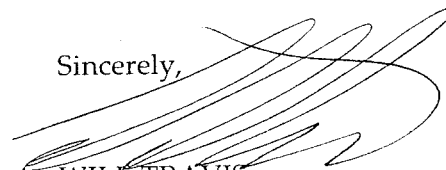
Scope of the PIEPR. We believe the PIEPR should evaluate the following issues as they relate to petroleum infrastructure development in the San Francisco Bay area:

1. **Dredging.** The CEC should analyze whether any projected increase in petroleum shipping and offloading at marine terminals will require more or deeper channels or marine terminals berths that will increase the need for dredging in the Bay. This analysis should evaluate the impacts to aquatic resources from dredging and disposal of dredged material. Because our BCDC staff reviews dredging projects on a routine basis, we could assist with this analysis.

2. **Oil Spills.** The CEC should assess whether any predicted increase in petroleum shipping in the Bay will increase the risk of an oil spill in the Bay. The Office of Oil Spill Prevention and Response and the San Francisco Bay Harbor Safety Committee should be consulted to assess whether current oil spill prevention and clean up measures would continue to provide adequate protection of Bay resources if petroleum shipping increases in the Bay. Furthermore, the PIEPR should analyze the impacts of an oil spill on aquatic resources as well as any impacts to public access and recreation opportunities.
3. **Marine Terminal Construction.** An assessment is needed of whether marine terminals would have to be expanded to accommodate petroleum shipping in the Bay. If construction of new wharves or an expansion of existing wharves would be required, the following potentially adverse impacts should be evaluated: (a) noise from pile driving activities on fish and aquatic organisms; (b) dredging as discussed above; (c) increased fill in the Bay; and (d) any associated increase in the intensity of use of upland facilities or expansions of upland facilities.
4. **Land Use Conflicts.** An analysis is needed to determine whether expansion of petroleum infrastructure and facilities would conflict with other land uses or designated priority use areas in the *San Francisco Bay Plan*. In addition to reserving areas for refineries and petroleum terminals, the Bay Plan designates other areas for priority uses such as recreation, ports, and water-related industry. The purpose of these designations is to retain land for important regionwide uses so that such uses do not require fill in the Bay at a future date. Thus, an analysis is needed to determine whether expanding petroleum facilities would conflict with achieving other public policy objectives.
5. **Public Access.** In addition to considering any adverse impacts to priority use areas designated for recreation, the CEC should consider any adverse impacts to existing public access paths and shoreline parks. The CEC should consult with either the BCDC staff or the Association of Bay Area Governments, which designates the locations of the Bay Trail, to determine whether potential expansions to upland facilities would conflict with any existing or planned Bay Trail designations.

We appreciate the opportunity to comment on the proposed PIEPR. Our staff would be happy to work with the Energy Commission to assess development trends and identify environmental implications of petroleum infrastructure development. If you have any questions regarding this letter or the Commission's policies, please call me at (415) 352-3653 or call Leslie Lacko of our staff at (415) 352-3646.

Sincerely,



WILL TRAVIS
Executive Director

cc: California Energy Commission, Attn: Rick Buell
California Energy Commission, Attn: Chris Kavalec
Commissioner Brian Baird